

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6724**

**BILL NUMBER:** HB 1222

**NOTE PREPARED:** Apr 8, 2003

**BILL AMENDED:** Feb 6, 2003

**SUBJECT:** New Construction in Floodway.

**FIRST AUTHOR:** Rep. Bottorff

**FIRST SPONSOR:** Sen. Lewis

**BILL STATUS:** As Passed - Senate

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☒ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill adopts the National Flood Insurance Program regulations as the criteria for determining whether a person is allowed to construct a new residence in a floodway along the Ohio River. The bill specifies the lowest floor of a new residence constructed in a floodway along the Ohio River must be at least two feet above the 100-year frequency flood elevation.

**Effective Date:** July 1, 2003.

**Explanation of State Expenditures:** (Revised) The Department of Natural Resources should be able to administer any increased permitting load with existing staff and resources. The Division of Water administers permitting in floodways under the Flood Control Act. This bill may increase the number of permits for construction in the Ohio River floodway that the Division reviews, as current law does not permit new construction in a floodway. Since 1997 the Division has received approximately 22 applications to build in the floodway of the Ohio River.

The amended bill allows new home construction in the floodway of a boundary water under certain conditions. The first floor of the new residence must be at least two feet above the 100-year frequency flood elevation. This may increase the number of permits reviewed by the Division. Total number of additional permits and any additional cost to the Department is unknown. (Department staff were contacted but have not provided a response at this writing. Information will be updated when available.) Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

*Background:* The section of code being amended by this legislation was implemented in 1997 after flooding

along the Ohio River. This was added to provide some leeway to homeowners along the Ohio River whose homes were damaged by flooding. This provision allowed homeowners to repair flood damages to their homes, but not replace the home. The federal criteria are less restrictive than the state criteria. The state criteria for streams other than the Ohio River does not permit new homes in the floodway, and there are some limitations on additions to homes in the floodway as well.

During the flood of 1997 the State Emergency Management Agency (SEMA) estimated damages in Indiana at more than \$20 M. These included costs for temporary housing, small business loans, grants, unemployment, and public assistance. Flood insurance claims were \$9 M. These numbers include flooding along all waterways during 1997. However, staff state that a majority was related to flooding along the Ohio River.

Areas affected by flooding, that is declared a disaster area, are eligible for several disaster assistance grants. These include: disaster grants - housing, disaster grants - employment, direct grants to individuals (\$15,000 maximum per household), and direct grants to individuals - emergency repairs. The state/locals are responsible for a 25% match for these grants with the federal government paying the remaining 75%. In 1997 the state/local share was approximately \$4 M.

If an area is out of compliance with federal floodway construction regulations, the area risks losing federal flood insurance. This would also impact a homeowners ability to obtain a mortgage for purchase of a home in the floodway.

The current permit fee for permitting in a floodway is \$50. Division staff state that this fee does not fully offset the cost of issuing a permit. Division staff estimate that the cost of issuing all permits for FY 2001 exceeds the fee by \$866 per permit.

**Explanation of State Revenues:** The current permit fee for permitting in a floodway is \$50. Division staff state that this legislation may increase the number of permits reviewed. An estimate of total revenue generated is not available at this time.

**Explanation of Local Expenditures:** (Revised) See *Explanation of State Expenditures*

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Natural Resources; State Emergency Management Agency.

**Local Agencies Affected:** Potentially all within Ohio River Floodway.

**Information Sources:** Jim Hebenstreit, Assistant Director, Division of Water, Department of Natural Resources, 317-232-4160; Mike Neyer, Division Director, Division of Water, Department of Natural Resources, 317-232-4160; Jan Crider, State Emergency Management Agency, 317-232-3833.

**Fiscal Analyst:** Michael Molnar, 317-232-9559